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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,640	02/21/2002	Peter E. von Behrens	26625-1002	8160

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EXAMINER

NGUYEN, HOANG M

ART UNIT PAPER NUMBER

3748

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/080,640

Applicant(s)

VON BEHRENS ET AL.

Examiner

Hoang M Nguyen

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--Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --

THE REPLY FILED 20 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): 102 rejection based on Honma reference.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: note the attached Office Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: \_\_\_\_\_

Hoang M Nguyen  
Primary Examiner  
Art Unit: 3748

Applicant's request for reconsideration dated January 20, 2004, has been fully considered.

First, Applicant is reminded that claimed subject matter must be interpreted as broad as possible. The Examiner understands that the claimed recesses are 74, 84, and 814 as noted by Applicant. Also, on page 16, lines 26-30, and lines 1-14, page 17, of this application clearly describes that "the rigid member acts as a heat sink", and "Because the recess 74 cut into the rigid member at each end of edge 73, the heat transfer from the wire to the plate through the air will be decreased at these ends". Basically, Applicant simply recites a recess in a heat sink with the heat transfer decreasing at the ends (note claim 1 for example).

Gummin et al reference teaches a heat sink 41 with holes (recesses) for the SMA wires 36 going through. Please note said holes are near the proximity of the wire at the central portion of the wire because the central portion of the wires 36 are inside the holes (or recesses), the ends of the wires are far away from the ends of the holes (notes figures 1-2 of Gummin). Because the claims simply recite a recess with heat transfer reducing at two ends, the Gummin et al reference clearly meet the claim limitation.

The MacGregor reference is similar to Gummin et al, Figure 7 of MacGregor shows a heat sink 77 having a recess therein, the SMA wires have both ends located

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far away from said recess when compared with the central portion of the wires. Hence, MacGregor meets the claimed subject matter as claimed.

Applicant argues that Jacob does not disclose SMA wires. The Examiner disagrees, even though Jacob does not use the term "SMA wires", his bimetal elements 20, 22, are expanded when heated and contracted when cooled, that is the basis concept of SMA wires.


Applicant's arguments against Honma that the housing in Honma cannot be considered as "elongate member". The Examiner agrees, and the rejections based on Honma will be withdrawn if this application is reopen for prosecution or going to the Board of Appeal.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Nguyen whose telephone number is (703) 308-3477. The examiner can normally be reached on Monday--Thursday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion, can be reached on (703)-308-2623. The fax phone number for the Examiner is (703) 872-9302 for regular communication, and (703) 872-9303 for after final communication.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



01/29/04

HOANG NGUYEN  
PRIMARY EXAMINER  
ART UNIT 3748

Hoang Minh Nguyen  
1/29/04